

DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. CAMPBELL, Mr. CRAIG, Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, and Mrs. MURRAY conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Florida is recognized.

JOINT INTELLIGENCE REPORT POST-9/11

Mr. GRAHAM of Florida. Mr. President, earlier this afternoon a declassified version of the report of the House and Senate Intelligence Committees on the events of September 11, 2001, were released to the public. I will take a few minutes to recognize those who performed a great public service in producing this report and to commend it to my colleagues and those who are watching. The public version of this report is available at the Web site of the Government Printing Office, www.access.gpo.gov.

This report fulfills the commitment that was made to the American people and particularly to the families of those who perished in this tragedy. The commitment was to conduct a thorough search for the truth about what our intelligence agencies knew or should have known about al-Qaida and its intentions prior to September 11. It was then to apply the lessons learned from that experience to reform the intelligence community in such a way as to mitigate the likelihood of a repetition of September 11.

This was a historic first-of-a-kind effort. For the first time in the history of the Congress, two standing committees, the House and the Senate, joined together to conduct a special inquiry with its own staff. That staff was led by the very capable Ms. Eleanor Hill. The staff reviewed nearly 1 million documents and conducted some 500 interviews. The joint inquiry committee held 22 hearings last year, 9 of which were open to the public. The result of this effort was released today.

This document includes both findings of fact and 19 recommendations for reform. I am extremely proud of the commitment that the Members of the House and Senate Intelligence Committee have given to this review. I would especially like to recognize the vice chairman of the Senate committee, Senator SHELBY, and the chairman and vice chairman of the House Intelligence Committee, Congressman PORTER GOSS and Congresswoman NANCY PELOSI.

The report's findings are grouped in 24 subject areas, but they have a single bottom line: The attacks of September 11 could have been prevented if the right combination of skill, coordination, creativity, and some good luck had been brought to the task.

There is an abundance of important information in this report that suggests, for example, institutional resistance to making counterterrorism a high national priority prior to Sep-

tember 11. This resistance took many forms. It included a lack of information sharing among key agencies. It included budget cuts at the Department of Justice for the FBI's counterterrorism program. Simply put, those problems contributed to the Government's inability to successfully launch an offensive against al-Qaida.

As an example of this difficulty, a previously classified finding, No. 14 in the report, states that senior military officials were reluctant to use military assets to conduct offensive counterterrorism efforts in Afghanistan or to support or participate in CIA operations directly towards al-Qaida prior to September 11.

In part, this reluctance was driven by the military's view that the intelligence community was unable to provide the intelligence necessary to support military operations. For example, the report confirms that between 1999 and 2001, U.S. Navy ships and submarines armed with cruise missiles were positioned in the north Arabian Sea. Their mission was to attack Osama bin Laden, but it was a mission frustrated because they were not able to get the actionable intelligence which only could have come by our ability to place spies close enough to al-Qaida to tell us what that organization would be doing and where Osama bin Laden might be on any given day.

The report makes it clear we should have known that potential terrorists were living among us. Indeed, two of the terrorist-turned-hijackers lived with an FBI informant in San Diego, CA, for 6 months or more in the year 2001. A resourceful FBI agent in Phoenix wanted to follow up on suspicions about foreign-born students who were honing their skills at American flight schools. Officials at FBI central headquarters shut him down.

To assure the American people that we take such actions seriously, we included a recommendation, No. 16, that calls for the Director of Central Intelligence to implement new accountability standards throughout the intelligence community. These standards would identify poor performance and affix responsibility for it. It would also set a standard to recognize and reward excellent performance.

Had such standards been in place 2 years ago, we might have been able to hold those whose performance fell short of what our country deserves accountable for their errors, omissions and commissions, particularly in the critical period immediately before September 11.

Had these standards been implemented last year, it is possible the Nation could have avoided the embarrassment and damage to our Government's credibility that has occurred because of the use of discredited intelligence information in the President's State of the Union Address. So far, we have seen no one suffer more than the indignity of a newspaper headline in either incident.

With the release of the joint inquiry report, it is time to look ahead and continue to implement the important reforms of the intelligence community that are necessary and to enhance the Federal Government's partnership with State and local law enforcement and other first responders.

If the recommendations in this report are heeded by the White House, by the agencies, and by this Congress, we should be able to make great strides in improving the security of the American people.

It is my intention to introduce legislation soon, with cosponsorship of members of the joint inquiry, that would implement the reforms which require legislative action. I hope it will move expeditiously to passage with the full support of the administration. I will also begin that effort with a sense of outrage because we have lost valuable time.

It took 7 months, almost as long as it took to conduct the inquiry, for the intelligence agencies to declassify the portions of the report that we are releasing today.

What are the consequences of that 7 months' delay? One is that the momentum for reform, which was at a high tide in the weeks and months immediately after 9/11, has begun to diminish despite the scope of the tragedy. We will learn shortly whether we can reinvigorate that reform movement. This Senate will face the test of its will to do so. I, for one, am committed to see this report is not forgotten or overlooked.

In my view, the delay reflects the excessive secrecy with which this administration appears to be obsessed and which is keeping important findings of our work from the American people. Such censorship also saps the urgency of reform and precludes the American peoples' ability to hold its leaders accountable.

The most serious omission, in my view, is part 4 of the report which is entitled "Finding, Discussion and Narrative Regarding Certain Sensitive National Security Matters." That section of the report contained 27 pages between pages 396 through 422. Those 27 pages have almost been entirely censored. This is the equivalent of ripping out a chapter in the middle of a history book before giving it to your child or grandchild and then telling her "good luck on the test."

The declassified version of this finding tells the American people that our investigation developed "information suggesting specific sources of foreign support for some of the September 11 hijackers while they were in the United States."

In other words, officials of a foreign government are alleged to have aided and abetted the terrorist attacks on our country on September 11 which took over 3,000 lives.

I would like to be able to identify for you the specific sources of that foreign support but that information is contained in the censored portions of this

report which are being denied to the American people.

What are the consequences of this? It significantly reduces the information available to the public about some of the Government's most important actions, or more accurately, inactions prior to September 11. Second, it precludes the American people from asking their Government legitimate questions such as, How was the information that our Government might have had prior to September 11 utilized after September 11 to enhance the security of our homeland and American interests abroad? Third, almost 2 years after the tragedy of September 11, the administration and the Congress, in the main, have not initiated reforms which would reduce the chances of another September 11.

For example, we are allowed to report that the estimates of the CIA's counterterrorism center is that between 70,000 and 120,000 recruits went through al-Qaida's training camps in Afghanistan before those troops were attacked in late 2001. The important questions as to the significance of that statement, to the security of the American people, are not available.

This obsession with excessive secrecy is deeply troubling. The recognition of the evils of secrecy in a free society date back to the beginnings of our Nation. Patrick Henry declared: The liberties of a people never were, nor ever will be, secure when the transactions of their rulers may be concealed from them.

President John F. Kennedy observed in the first year of his Presidency: "the very word secret is repugnant in a free and open society, and we are, as people, inherently and historically opposed to secret societies, to secret oaths, and to secret proceedings. We decided long ago that the dangers of excessive and unwarranted concealment of pertinent facts far outweighed the dangers, which are cited to justify." These are traditional American values that are being trampled.

So the joint committee included our report with this recommendation, recommendation No. 15. "The President should review and consider amendments to the Executive Orders, policies, and procedures that govern the national security classification of intelligence information in an effort to expand access to relevant information for Federal agencies outside the intelligence community and for State and local authorities which are critical to the fight against terrorism and for the American public".

In addition, the President and heads of Federal agencies should assure that the policies and procedures to protect against unauthorized disclosure of classified intelligence information are well understood, fully implemented, and vigorously enforced.

It is my observation that because classification is used so excessively, the corollary is only a minimal effort to enforce classification of materials that truly do deserve to be classified.

Again, I remind my colleagues that these recommendations were written late in 2002 before the current crisis developed over the use and possible misuse of intelligence leading us to war in Iraq. But that crisis has given this recommendation even greater urgency for the Government's credibility with the American people and our credibility with the rest of the world.

These qualities have been severely eroded in large part because of excessive secrecy. To regain the people's trust we must bring new transparency to our decisionmakers. We must bring new transparency to our decision-making. We must move decisions and governmental information into the sunshine. We owe that and much more to the 3,000 victims of September 11.

The PRESIDING OFFICER (Mr. ENZI). The majority leader.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF EARL LEROY YEAKEL III, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

Mr. FRIST. Mr. President, as in executive session I ask unanimous consent the Senate proceed to executive session for the consideration of Calendar No. 296, Earl Yeakel III, to be U.S. District Judge for the Western District of Texas; I further ask that there then be 5 minutes for debate, equally divided between Senators HUTCHISON and CORNYN, and 5 minutes for Senator LEAHY; further, I ask that following that debate, the Senate proceed to a vote on the confirmation of the nomination, with no further intervening action or debate; finally, that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is noted.

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate proceed to the nomination at 4:50 p.m. on Monday, under the exact same conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ENERGY POLICY ACT OF 2003— Resumed

Mr. FRIST. Mr. President, I now ask for the regular order with respect to S. 14.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations."

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry: Are we currently on the Indian amendment of Senator CAMPBELL?

The PRESIDING OFFICER. The Campbell amendment No. 886 is pending.

Mr. DOMENICI. I have cleared this on both sides. I ask unanimous consent that amendment be set aside so we can conduct some business this evening. There are two or three amendments of substance that Senators would like to offer. Senator CAMPBELL and Senator BINGAMAN have no objection to setting this aside.

Mr. REID. Reserving the right to object, I have spoken to Senator CAMPBELL earlier this evening. We have, now—however many weeks it has been since we were on this bill. The Senator on our side we said would be here to offer the next amendment is Senator DURBIN. Senator DURBIN is ready whenever the Senator yields the floor.

Mr. DOMENICI. Surely.

Mr. REID. He is ready to offer that right now, whenever the Senator desires.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I certainly have no objection to Senator DURBIN having the first amendment this evening. I just want to make sure we have an understanding about how long he might take and what will be next. There are a number of people who want to offer similar amendments. We understood the purpose tonight was to stay, even though it is late, so Senator DURBIN might offer an amendment in the area of CAFE standards, and that two other Senators might follow.

Mr. REID. If I can respond to the Senator from New Mexico, the distinguished chairman of the committee, the Senator from Illinois intends to lay down the amendment tonight and that is all.

Mr. DOMENICI. Before I yield the floor, I ask if the Senator from Georgia wishes to ask something of the Senator from New Mexico, or does he want the floor?

Mr. CHAMBLISS. I ask unanimous consent I be allowed to speak for no more than 5 minutes as in morning business.

Mr. DOMENICI. He asked to speak as in morning business prior to the amendment. I have no objection.

Mr. REID. Mr. President, I would love to hear the Senator from Texas, but Senator DURBIN is going to take less than a minute to do his.

Mr. DOMENICI. We will then sit down. Certainly you can seek recognition.

The PRESIDING OFFICER. The Senator from Illinois.